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September 9, 2015

By ECF

The Honorable Brian M. Cogan
United States District Judge
Eastern District of New York
225 Cadman Plaza East
Brooklyn, New York 11201

Re: *United States v. Howard E. Leventhal*
Case No. 13-CR-695 (BMC)

Dear Judge Cogan:

I write in accordance with the Court's order dated September 3, 2015, directing the defendant to respond to the government's letter filed on September 3, 2015 ([ecf #61](#)). The defendant has previously submitted two other letters ([ecf #63](#) and [ecf #66](#)) that addressed the issues covered by the Court's order. They are respectfully incorporated herein by reference. Background matters will not be repeated.

I. The "Colodny" Letter

On September 8, 2015, counsel for the defendant traveled to Chicago and visited the offices of Dr. Charles Colodny. Although Dr. Colodny is still on vacation, his office was open and members of his staff were shown a copy of a letter that had previously been described as a "*complete fabrication*." Dr. Colodny's office manager confirmed that she recognized the signature on the letter as that of Dr. Colodny and that the medical file maintained at his medical office included a copy of the same letter. Accordingly, there appears to be no doubt that the government's representation to the Court that this letter was "fabricated" "appalling" and "inexcusable" is completely inaccurate.

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II. Stanley Raphael

The government made reference to “a nearly 80-year old investor in Boca Raton Florida.” The manner in which the government described the “Florida Investor” was it seems clear, phrased in a manner that suggests that Mr. Leventhal took advantage of a senile retiree living in Florida.

The “Florida Investor” is Stanley S. Raphael, a resident of Boca Raton, Florida . Mr. Raphael is a business associate of Mr. Leventhal and has been for time. He was an investor in a company that was owned by Mr. Leventhal approximately 10 years ago. The company was named US Telematics.¹

Mr. Raphael is also a sophisticated investor. Not simply an “a nearly 80-year old investor” who happens to reside in Florida. According to records maintained by the Securities and Exchange Commission (“SEC”), Mr. Raphael has an interest in a number different companies that have traded publically at one time or another.² It is my understanding that he loaned money to Mr. Leventhal because with full voluntarily and with full knowledge and understanding of the circumstances.

Thank you very much for your consideration in this matter.

Respectfully submitted,

Steve Zissou

Winston Paes, AUSA, by ECF

¹[http://yahoo.brand.edgar-online.com/DisplayFilingInfo.aspx?Type=HTML&text=%2526lt%253bNEAR%252f4%2526gt%253b\(%22STANLEY+S%22%2c%22RAPHAEL%22\)+%2526lt%253bOR%2526gt%253b+%2526lt%253bNEAR%252f4%2526gt%253b\(%22STANLEY+S.%22%2c%22RAPHAEL%22\)&FilingID=5183618&ppu=%2fPeopleFilingResults.aspx%3fPersonID%3d2196697%26PersonName%3dSTANLEY%2520S.%2520RAPHAEL](http://yahoo.brand.edgar-online.com/DisplayFilingInfo.aspx?Type=HTML&text=%2526lt%253bNEAR%252f4%2526gt%253b(%22STANLEY+S%22%2c%22RAPHAEL%22)+%2526lt%253bOR%2526gt%253b+%2526lt%253bNEAR%252f4%2526gt%253b(%22STANLEY+S.%22%2c%22RAPHAEL%22)&FilingID=5183618&ppu=%2fPeopleFilingResults.aspx%3fPersonID%3d2196697%26PersonName%3dSTANLEY%2520S.%2520RAPHAEL)

²<http://yahoo.brand.edgar-online.com/PeopleFilingResults.aspx?PersonID=2196697&PersonName=STANLEY%20S.%20RAPHAEL>